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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,325	11/25/2003	Daniel Eric Derscheid	09207-US	9297

7590

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EXAMINER

NGUYEN, JIMMY T

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/722,325	<b>Applicant(s)</b> DERSCHIED ET AL.	
	<b>Examiner</b> Jimmy T Nguyen	<b>Art Unit</b> 3725	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 6 is/are rejected.
- 7) ☒ Claim(s) 2-3, 5 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/25/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

Claims 5-7 are objected to because of the following informalities: Claim 5 does not number consecutively beginning with the number next following the highest numbered claim (claim 3) previously presented. For the purpose of examination, the misnumbered claims 5-7 have been renumbered to 4-6, and the dependency of the newly renumbered claim 6 has been changed to depend upon claim 5.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hood et al. (hereinafter “Hood”)(US 8,822,967).**

Regarding claim 1, Hood discloses a large round baler (10) supported on wheels (28, 30) carried at opposite ends of a horizontal, transverse axle (26) fixed to a frame (12) of the baler, and including a baling chamber having opposite side walls defined in part by a bale discharge gate (22) movable between a lowered baling position and a raised bale discharge position (fig. 1) defining an outlet (fig. 1) through which a bale may fall to the ground, a longitudinally extending bale unloading arrangement (42, 48) mounted to the baler for pivoting vertically between a

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raised bale-receiving position (fig. 4) and a lowered, bale-depositing position (fig. 5), with movement from said bale-receiving position to said bale-depositing position being against an upwardly directed biasing force (74), the bale unloading arrangement including a carrier (54) attached to said large round baler so as to move vertically (fig. 1); and a bale take-up device including a trough-shaped bale-receiving member (48) and being mounted to said carrier for being guided (by mechanical linkage) between a forward position, wherein said bale-receiving member is located below, and facing said outlet of said baling chamber when said discharge gate is in said raised bale discharge position (fig. 4), and a rearward position facing away from said outlet when said bale unloading arrangement is in said bale-depositing position (fig. 8D and col. 6, lines 11-15).

Regarding claim 5, said bale take-up device includes a carriage frame (fig. 5) and an upper bale-receiving member (80, 82) mounted to said carriage frame for pivoting vertically about a fore-and-aft extending axis between a bale-receiving position (fig. 4) and a bale-depositing position (fig. 8D); and a powered tilt device (88) being coupled between said carriage frame and said bale-receiving member for selectively moving said bale-receiving member between said bale-receiving and bale-depositing positions, whereby a bale carried by said bale-receiving member may be deposited on its end (fig. 8D).

#### ***Allowable Subject Matter***

Claims 2-4 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Regarding claim 2, Hood discloses the upwardly directing force is a hydraulic cylinder (74), this hydraulic cylinder controls the movement of the receiving member (48) toward and away from the ground as well as function to pivot kick bars (72) about transverse member (70). Therefore, it is not obvious to replace the hydraulic cylinder with a compression spring because such modification would damage the function of the kick bars.

Regarding claim 4, Hood discloses that the take up device (48) is pivoting mounted on the carrier (54), and the carrier moved vertically to assist the take up device into receiving the bale and depositing the bale on the floor. Therefore, it is not obvious for one skill in the art to provide Hood with a take up drive to move the take up device fore and aft along the carrier. The patent to Hood also discloses another bale unloading arrangement (fig.9) that includes a take up device (48) movable along a carrier (12) by a take up drive (124). But this arrangement fails to disclose the vertical movement of the carrier and the upwardly directed biasing force.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art listed on the attached PTO 892 are cited to show various types of bale unloading arrangement in round balers.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T Nguyen whose telephone number is (571) 272-4520. The examiner can normally be reached on Mon-Thur 8:00am - 6:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272- 4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTNguyen  
April 25, 2005



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